





Colorado Revised Statutes

-  Colorado Revised Statutes
-  TITLE 18 CRIMINAL CODE
-  ARTICLE 1.3 Sentencing in Criminal Cases
-  PART 1 ALTERNATIVES IN SENTENCING

18-1.3-106. County jail sentencing alternatives – work, educational, and medical release – home detention – day reporting.

(1)(a) Any county may provide a program whereby any person sentenced to the county jail upon conviction for a crime, nonpayment of any fine or forfeiture, or contempt of court may be granted by the court the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

(I) Seeking employment;

(II) Working at his or her employment;

(III) Conducting his or her own business or other self-employed occupation including housekeeping and attending to the needs of the family;

(IV) Attendance at an educational institution;

(V) Medical treatment;

(VI) Home detention; or

(VII) Day reporting.

(b) A court may order a person who would otherwise be sentenced to the county jail upon conviction of a crime to be sentenced directly to an available day reporting program if the court deems such a sentence to be appropriate for the offender.

(1.1) For purposes of this section, "home detention" means an alternative correctional sentence or term of legal supervision wherein a defendant charged or convicted of a misdemeanor, felony, nonpayment of any fine, or contempt of court is allowed to serve his or her sentence or term of supervision, or a portion thereof, within his or her home or other approved residence. Such sentence or term of supervision shall cause the defendant to remain within such defendant's approved residence at all times except for approved employment, court-ordered activities, and medical needs. Supervision of the defendant shall include personal monitoring by an agent or designee of the referring unit of government and monitoring by electronic or global positioning devices that are capable of detecting and reporting the defendant's absence or presence within the approved residence.

(1.3) Before a court may grant a person sentenced to the county jail the privilege of leaving the jail to attend a postsecondary educational institution, the court shall first notify the prosecuting attorney and the postsecondary educational institution of its intention to grant the

privilege and requesting their comments thereon. The notice shall include all relevant information pertaining to the person and the crime for which he or she was convicted. Both the prosecuting attorney and the postsecondary institution shall reply to the court in writing within ten days of receipt of the notification or within such other reasonable time in excess of ten days as specified by the court. The postsecondary educational institution's reply shall include a statement of whether or not it will accept the person as a student. Acceptance by a state postsecondary educational institution shall be pursuant to section [23-5-106](#), C.R.S.

(2) Unless directly sentenced to a day reporting program pursuant to paragraph (b) of subsection (1) of this section or unless such privilege is otherwise expressly granted by the sentencing court, the prisoner shall be confined as sentenced. The prisoner may petition the court for such privilege at the time of sentencing or thereafter and, in the discretion of the court, may renew his or her petition. The court may withdraw the privilege at any time by order entered with or without notice.

(3) The sheriff may endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, the sheriff may collect the same or require the prisoner to turn over his or her wages or salary in full when received, and the sheriff shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner.

(4) Every prisoner gainfully employed shall be liable for the cost of his or her board in the jail or the cost of the supervision and administrative services if he or she is home-detained, as fixed by the board of county commissioners. If necessarily absent from jail at mealtime, he or she shall, at his or her request, be furnished with an adequate nourishing lunch to carry to work. The sheriff shall charge his or her account, if he or she has one, for such board. If the prisoner is gainfully self-employed, he or she shall pay the sheriff for such board, in default of which his or her privilege under this section shall be automatically forfeited. If the jail food is furnished directly by the county, the sheriff shall account for and pay over such board payments to the county treasurer. The board of county commissioners may, by resolution, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment. The sheriff shall reimburse the county or other disbursing agent for all such expenses incurred in accordance with this section and article 26 of title 17, C.R.S., as soon as adequate funds are available in the prisoner's account and in accordance with paragraph (b) of subsection (5) of this section.

(5) By order of the court, the wages or salaries of employed prisoners shall be disbursed by the sheriff for the following purposes, in the order stated:

- (a) Payment of any current child support order;
- (b) Payment of any child support arrearage;
- (b.3) Payment of any child support debt order;

(c) Payment of any spousal maintenance;

(d) Payment of costs for the crime victim compensation fund, pursuant to section [24-4.1-119](#), C.R.S.;

(e) Payment of surcharges for the victims and witnesses assistance and law enforcement fund, pursuant to section [24-4.2-104](#), C.R.S.;

(f) Payment of restitution;

(g) Payment of a time payment fee;

(h) Payment of late fees;

(i) Payment of any other fines, fees, or surcharges;

(j) Payment of the board of the prisoner;

(k) Payment of the supervision and administrative services provided to the prisoner during his or her home detention;

(l) Payment of necessary travel expense to and from work and other incidental expenses of the prisoner;

(m) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him or her in writing or which have been reduced to judgment; and

(n) The balance, if any, to the prisoner upon his or her discharge.

(6) The court may by order authorize the sheriff to whom the prisoner is committed to arrange with another sheriff for the employment or home detention of the prisoner in the other's county and, while so employed or so detained, for the prisoner to be in the other's custody but in other respects to be and continue subject to the commitment.

(7) If the prisoner was convicted in a court in another county, the court of record having criminal jurisdiction may, at the request or with the concurrence of the committing court, make all determinations and orders under this section which might otherwise be made by the sentencing court after the prisoner is received at the jail.

(8) The board of county commissioners may, by resolution, direct that functions of the sheriff under either subsection (3) or (5) of this section, or both, be performed by the county department of social services; or, if the board of county commissioners has not so directed, a court of record may order that the prisoner's earnings be collected and disbursed by the clerk of the court. Such order shall remain in force until rescinded by the board or the court, whichever made it.

(9) The county department of social services shall at the request of the court investigate and report to the court the amount necessary for the support of the prisoner's dependents.

(10) The sheriff may refuse to permit the prisoner to exercise his or her privilege to leave the jail as provided in subsection (1) of this

section for any breach of discipline or other violation of jail regulations. Any such breach of discipline or other violation of jail regulations shall be reported to the sentencing court.

(11) A prisoner who has been convicted of one of the crimes of violence as defined in section [18-1.3-406](#)(2), who has been convicted of a sex offense as defined in sections [18-1.3-903](#)(5) and [18-3-411](#), who has been convicted of a crime, the underlying factual basis of which was found by the court to include an act of domestic violence, as defined in section [18-6-800.3](#)(1), or who has been convicted of a class 1 misdemeanor in which a deadly weapon is used shall not be eligible for home detention pursuant to this section.

(12) Persons sentenced to the county jail as a direct sentence or sentenced to the county jail as a condition of probation who are permitted to participate in work, educational, medical release, home detention, or day reporting programs pursuant to subsection (1) of this section shall receive one day credit against their sentences for each day spent in such programs. As used in this section, "day reporting program" means an alternative correctional sentence wherein a defendant is allowed to serve his or her sentence by reporting daily to a central location wherein the defendant is supervised in court-ordered activities.

Source: L. 2002: Entire article added with relocations, p. 1372, § 2, effective October 1. L. 2006: (1.1) amended, p. 18, § 2, effective March 8. L. 2008: (5)(d) amended, p. 1888, § 51, effective August 5.

Editor's note: This section is similar to former § [17-26-128](#) as it existed prior to 2002.